

REMARKS

Claims 62–71 and 73–77 are pending; claim 72 is withdrawn from consideration. Claims 63, 65, and 73–75 have been amended to clarify the scope of the invention. Support for the claim amendments may be found, for example, in the originally filed claims, and in Figures 1A–1C, Figure 4, and related text. No new matter has been added.

Information Disclosure Statement

For the convenience of the Examiner, we are providing courtesy copies of foreign patent documents B1–B44 and C1–C97 under separate cover.

Claim Objections

Applicants thank the Examiner for correctly renumbering the claims. The new numbering is reflected in the preceding listing of claims.

The Examiner objects to claim 63, stating that the term “depositing said relaxed $\text{Si}_{1-y}\text{Ge}_y$ ” layer should be rewritten as “splitting said relaxed $\text{Si}_{1-y}\text{Ge}_y$ layer” to better reflect the subject matter of the elected species. Applicants respectfully disagree. In a Response to Election Requirement filed December 1, 2006, Applicants elected species 1, defined by the Examiner as including the embodiment of Figs. 1A–1C. Referring to these figures, one can see that the device layer 114 is formed after the relaxed $\text{Si}_{1-y}\text{Ge}_y$ layer 104 is deposited. Thus, claim 63 complies with the election requirement, without the suggested amendment.

Applicants submit that the other objections to claims 63–65 and 73–76 are moot in view of the claim amendments.

Rejection of claims under 35 U.S.C. § 102

Claims 62, 67–71, 73, and 77 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,602,613 to Fitzgerald (“Fitzgerald”). As evidenced by the enclosed Declaration of Attribution Under 37 C.F.R. § 1.132, Eugene Fitzgerald is the sole inventor of claims 62, 67–71, 73, and 77. Moreover, Eugene Fitzgerald is the sole inventor of the Fitzgerald reference. Thus, the Fitzgerald reference is not prior art for these claims.

Applicants submit that independent claim 62 and claims dependent therefrom are patentable for at least this reason.

Rejection of claims under 35 U.S.C. § 103

Claims 66 and 76 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Fitzgerald in view of U.S. Patent No. 6,534,380 to Yamauchi et al. (“Yamauchi”). Claims 63–65, 74, and 75 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Fitzgerald in view of U.S. Patent No. 5,891,769 to Liaw et al. (“Liaw”).

Applicants submit that these dependent claims are patentable for at least the reasons that independent claim 62, on which they depend, is patentable, as discussed above.

Double Patenting

Claims 62–71 and 73–77 are rejected on the ground of nonstatutory double patenting over claims 1–44 of U.S. Patent No. 6,573,126 to Cheng et al. Applicants submit this rejection is rendered moot by the submission of the enclosed Terminal Disclaimer.

CONCLUSION

In light of the foregoing, Applicants respectfully submit that all claims are now in condition for allowance.

If the Examiner believes that a telephone conversation with Applicants' attorney would expedite allowance of this application, the Examiner is cordially invited to call the undersigned attorney at (617) 570-1806.

A petition for a two-month extension of time is enclosed. The Commissioner is hereby authorized to charge the required fee of \$450 to Deposit Account No. 07-1700. The Commissioner is also authorized to charge the fee of \$130 for the enclosed Terminal Disclaimer. Applicants believe that no other fee is due for filing of this response. However, if any other fee is due, please charge said fee occasioned by this paper to our Deposit Account No. 07-1700.

Respectfully submitted,

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